

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7740

Petition of Vermont Electric Power Company, Inc. and)
Vermont Transco LLC ("VELCO"), for a waiver under)
30 V.S.A. § 248(k) to allow for the emergency)
installation of H-frame poles on the VELCO K-41 line in)
Highgate, Sheldon, Enosburg, Berkshire and Richford,)
Vermont)

Hearing at
Montpelier, Vermont
June 24, 2011

Order entered: 7/20/2011

I. INTRODUCTION

On June 20, 2011, Vermont Electric Power Company, Inc. and Vermont Transco LLC (collectively, "VELCO"), filed a petition for a waiver, pursuant to 30 V.S.A. § 248(k), to allow for the emergency replacement of twelve existing H-frame pole structures and the installation of three new H-frame pole structures on VELCO's K-41 line in the Towns of Highgate, Sheldon, Enosburg, Berkshire and Richford, Vermont.

The petition was served on the governmental bodies required to receive notice pursuant to 30 V.S.A. § 248(a)(4)(C). The Public Service Board ("Board") appointed me as Hearing Officer to conduct the preliminary hearing on the request for a waiver, and to prepare a Proposal for Decision in this Docket. An expedited preliminary hearing was held as scheduled on June 24, 2011, after providing notice to the petitioner and governmental bodies specified in subsection (a)(4)(C) of 30 V.S.A. § 248.

At the June 24 hearing, VELCO presented evidence in support of its request for a waiver. The Department of Public Service ("Department") and the Agency of Natural Resources ("ANR"), which are the only other parties to this proceeding, agreed that the Board should issue the requested Section 248(k) waiver, with conditions that the parties agreed to at the hearing. The parties also agreed that, in order to expedite a decision, the Board could issue a summary order, with findings and a discussion to follow at a later date.

Also on June 24, the Board issued an Order granting the requested waiver. The Board's June 24 Order stated that findings and a discussion in support of the Order would be issued at a later date.

Today's Order sets forth the findings and discussion in support of the Section 248(k) waiver.

II. FINDINGS

Based on the evidence of record and the testimony presented at the expedited preliminary hearing, I hereby report the following findings to the Board in accordance with 30 V.S.A. § 8.

1. VELCO is a duly organized company as defined in 30 V.S.A. § 201 and is subject to the jurisdiction of the Board. Petition at 1.

2. VELCO owns and operates a 115 kV transmission line that extends from Irasburg to Highgate, Vermont (the "K-41 Line"). Dunn pf. at 2.

3. Portions of the line are decades old. VELCO acquired the line from Citizens Utilities in 2003. Dunn pf. at 3.

4. VELCO performed a North American Electric Reliability Corporation ("NERC") recommended inspection of the line and discovered a number of locations where the line clearances are out of compliance with the National Electric Safety Code ("NESC"). For 115 kV lines, NESC requires a minimum ground clearance of 16.1 feet for non-vehicular traffic and 20.1 feet for vehicular traffic. Dunn pf. at 3–4.

5. In a number of locations, the line crosses or is adjacent to active agricultural fields, at which locations the conductor must be raised to meet the NESC requirements for vehicular traffic. Having the K-41 line energized presents a very real safety issue given that much of the line where clearance violations occur is in agricultural fields where farmers are cutting hay, corn and other activities, including logging. Dunn pf. at 4; tr. 6/24/11 at 15.

6. At ambient temperatures of 61°F or higher, the line cannot carry any current at all without violating NESC clearances. Therefore, de-rating the line is not an option for bringing it into compliance with NESC requirements. Dunn supp. pf. at 8; tr. 6/24/11 at 13 (Dunn).

7. In addition to the ground-clearance violations, the line likely also violates conductor-to-conductor clearance requirements. Tr. 6/24/11 at 28–9, 46 (Dunn).

8. NERC recommends that as soon as a transmission owner discovers an NESC violation, the line should be de-rated or taken out of service until the violation is corrected. Since de-rating the line would not resolve the clearance violations, VELCO took the line out of service. Dunn pf. at 4; tr. 6/24/11 at 13–14 (Dunn).

9. In taking the line out of service, VELCO has eliminated the danger due to low conductor clearances, but in so doing has created a serious reliability concern. With the K-41 line out of service, the VELCO system from Littleton, New Hampshire, through St. Johnsbury and Lyndonville is operated as a radial line subject to a single contingency. Loss of the Littleton, New Hampshire, to St. Johnsbury line could result in loss of 65 MWs of load, affecting approximately 28,000 customers. Dunn pf. at 4; Dunn supp. pf. at 5–6; tr. 6/24/11 at 14, 15, 26–7 (Dunn).

10. With the addition of three mid-span H-frame pole structures and the replacement of twelve existing H-frame pole structures with new taller structures, all of the code violations can be addressed and the K-41 Line returned to service. Dunn pf. at 4; exh. VELCO-Dunn-2.

11. VELCO will not require any new access roads to do the work contemplated. All work will be conducted within the existing right-of-way. Dunn pf. at 10; tr. 6/24/11 at 68 (Dunn).

12. No access routes will go through deer wintering yards. Tr. 6/24/11 at 35–6 (Dunn).

13. VELCO and ANR have agreed to the following conditions regarding wetlands and rare, threatened and endangered species:

a. Prior to commencing any site preparation or construction work, VELCO will have all impacted areas not in actively farmed agricultural fields surveyed by a qualified botanist. (Poles structures not in actively farmed agricultural fields are: structures numbers 435, 424, 421, 377, 376, 338, 333x, 328x, see Exh. VELCO-Dunn-2). All rare, threatened or endangered plants identified in the survey will be flagged and avoided. If avoidance is not feasible, VELCO will develop a mitigation plan in consultation with the ANR. The mitigation plan will include, at a minimum, provisions for: collection and planting of seeds; relocation of impacted plants; and care and maintenance of relocated plants.

b. VELCO will consult with ANR regarding the selection of the botanist to perform the above-mentioned survey.

c. All work in wetlands or their buffers shall be performed in accordance with Vermont Wetlands Rules and VELCO's Environmental Guidance Manual.¹

14. VELCO intends to assess the entire K-41 Line to allow it to prepare a petition pursuant to 30 V.S.A. § 248 to upgrade the line. The analysis, which will take approximately one year to complete, may call for replacing 50 to 60 more poles and possibly reconductoring the line. Petition at 2; Dunn pf. at 3–4; tr. 6/24/11 at 29 (Dunn).

III. DISCUSSION AND CONCLUSION

Section 248(k) provides that:

(k)(1) Notwithstanding any other provisions of this section, the board may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility or a generation facility necessary to assure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

(2) A person seeking a waiver under this subsection shall file a petition with the board and shall provide copies to the department of public service and the agency of natural resources. Upon receiving the petition, the board shall conduct an expedited preliminary hearing, upon such notice to the governmental bodies listed in subdivision (a)(4)(C) of this section as the board may require.

(3) An order granting a waiver may include terms, conditions and safeguards, including the posting of a bond or other security, as the board deems proper, considering the scope and duration of the requested waiver.

(4) A waiver shall be granted only upon a showing that:

(A) good cause exists because an emergency situation has occurred;

(B) the waiver is necessary to provide adequate and efficient service or to preserve the property of the public service company devoted to public use;

(C) measures will be taken, as the board deems appropriate, to minimize significant adverse impacts under the criteria specified in subdivisions (b)(5) and (8) of this section; and

(D) taking into account any terms, conditions and safeguards that the board may require, the waiver will promote the general good of the state.

1. The specific language for these conditions was confirmed in e-mail correspondence between VELCO and ANR following the June 24 hearing.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the board shall require the removal, relocation or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the state.

Until the K-41 line was taken out of service, this section of VELCO's system was operated as a looped system. Without the K-41 line, the formerly looped area can no longer be operated as it was previously, and a large amount of load (65 MWs) and many thousands of customers are at risk from a single contingency. This qualifies as an emergency situation for purposes of Section 248(k).²

The evidence presented at the June 24 hearing demonstrates that, under the specific circumstances presented, an emergency situation has developed and that, with the conditions set forth in the Order below, the Section 248(k) criteria for granting a waiver have been met.

The parties have waived the opportunity to comment and present argument on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 14th day of July, 2011.

s/Kurt Janson

Kurt Janson, Esq.
Hearing Officer

2. The narrowness of this "emergency" determination must be emphasized. The present circumstances are readily distinguishable from situations in which load is served radially in the normal course of operations. Thus, this Order should not be interpreted as precedent for concluding that any single-contingency situation qualifies as an emergency under Section 248(k).

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that, pursuant to 30 V.S.A. § 248(k), the prohibition of 30 V.S.A. § 248(a)(2) against site preparation for and construction of the replacement of twelve existing pole structures and the addition of three mid-span structures on Vermont Electric Power Company, Inc. and Vermont Transco LLC's (collectively, "VELCO") K-41 line in the towns of Highgate, Sheldon, Enosburg, Berkshire, and Richford, Vermont, prior to the issuance of a certificate of public good, is waived, subject to the following conditions:

1. The pole structures shall be installed in accordance with the evidence submitted by VELCO in this proceeding.
2. Prior to commencing any site preparation or construction work, VELCO shall have all impacted areas not in actively farmed agricultural fields surveyed by a qualified botanist. (Pole structures not in actively farmed agricultural fields are: structure numbers 435, 424, 421, 377, 376, 338, 333x, 328x; see Exh. VELCO-Dunn-2). All rare, threatened or endangered plants identified in the survey shall be flagged and avoided. If avoidance is not feasible, VELCO shall develop a mitigation plan in consultation with the Agency of Natural Resources ("ANR"). The mitigation plan shall include, at a minimum, provisions for: collection and planting of seeds; relocation of impacted plants; and care and maintenance of relocated plants.
3. VELCO shall consult with ANR regarding the selection of the botanist to perform the above-referenced survey.
4. All work in wetlands or their buffers shall be performed in accordance with Vermont Wetlands Rules and VELCO's Environmental Guidance Manual.
5. VELCO shall file, within one year of the date of this Order, a petition for a certificate of public good authorizing the replacement of twelve existing pole structures and the addition of three mid-span structures and such other upgrades as VELCO determines are required on the K-41 line. If VELCO does not file such a petition, VELCO shall remove the fifteen pole structures that are the subject of this Order within one year of the date of this Order.
6. This waiver shall last until the Public Service Board has completed its examination of VELCO's petition to upgrade the K-41 line referred to in Paragraph No. 5, above.

Dated at Montpelier, Vermont, this 20th day of July, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: July 20, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.